

## PROCEDURES AND REQUIRED DOCUMENTS FOR ORDER TO SHOW CAUSE HEARINGS

An "Order to Show Cause" hearing is an optional preliminary hearing at which you may request orders before you finalize your case with a "Judgment" form.

Common orders made at an "OSC" hearing include support, custody and visitation of children, use of community assets, restraining orders, etc. These orders remain in effect during the time your case is pending in the Court and will be superseded (replaced) by orders made in the "Judgment" filed at the conclusion of your case.

An "OSC" hearing is not the hearing at which your "Judgment" will be obtained and should only be set when it is necessary to have orders made "quickly" to maintain status of conditions or for protection in an emergency. An "OSC" hearing can also be used to **modify** the orders in your "Judgment" under certain circumstances.

If you wish to have an "Order to Show Cause" hearing, you must follow the instructions set out below. This is a basic summary of the general requirements for filing an "OSC" hearing. Your particular case may require more detail as set forth in the California Judicial Council Family Law Rules of Court and pertinent state statutes.

"An Order to Show Cause" packet can be obtained at any of the court addresses listed above.

**TYPE OR PRINT IN BLACK INK** one original of each of the following documents. Upon completion, make **two** copies of each form. Present originals and copies to the clerk for filing.

- A. ORDER TO SHOW CAUSE form.
- B. APPLICATION FOR ORDER and SUPPORTING DECLARATION FOR ORDER TO SHOW CAUSE form.
- C. PROOF OF SERVICE form.
- D. TEMPORARY RESTRAINING ORDER form at an emergency hearing.
- E. DECLARATION OF 4-HOUR NOTICE (Emergency Orders Only).
- F. INCOME AND EXPENSE DECLARATION form, INCOME INFORMATION form, EXPENSE INFORMATION form. (These forms are only necessary if seeking support orders. Attach the three most recent pay stubs.)
- G. WAGE ASSIGNMENT form (only necessary if seeking support orders).
- H. UCCJA - Declaration under Uniform Child Custody Jurisdiction Act (if there are custody or visitation issues; if there are children of the relationship).
- I. FINDINGS AND ORDER AFTER HEARING.
- J. RESTRAINING ORDER AFTER HEARING (if requesting restraining orders).

**PLEASE NOTE:** The **RESTRAINING ORDER AFTER HEARING (CLETS)** must be completed and include **ALL** orders made in Court. This order must be signed by the judge and served to the law enforcement agency before these orders can be enforced.

You will also need Supporting Affidavits or Declarations in your own words which shall set forth fully the following:

Facts why the temporary restraining orders are necessary pending the hearing, if such are requested. You must give details and dates of recent incidents that demonstrate the need for the temporary restraining orders. (Must be signed under penalty of perjury.)

Reasons why the requests which are to be considered by the Court at the time of the hearing should be granted.

**DO NOT** include in your declaration any "hearsay" evidence; *i.e.*, information told to you by a third party. Include only information of which you have personal knowledge or statements made by other party directly to you.

Additional supporting affidavits or declarations of third persons, not parties to the action, may be submitted if they are relevant and conform to Evidence Code standards. Such third persons must, however, be available in Court at the time of the hearing for such cross-examination as may be required or permitted by the Court.

Declarations must all be signed "under penalty of perjury." Forms called "Additional Page" may be purchased and used for preparing supporting declarations.

Effective January 1, 1981, all Orders to Show Cause heard in San Bernardino County will be determined **solely on the basis of written declarations or affidavits submitted by the parties and optional oral argument**. No oral testimony will be permitted except in the discretion of the Court for good cause shown.

*(Continued on reverse)*

THE FOLLOWING DOCUMENTS ARE TO BE LEFT ENTIRELY BLANK, AND ARE TO BE SERVED ON THE OPPOSING PARTY ALONG WITH COPIES OF THE DOCUMENTS LISTED ON THE REVERSE SIDE OF THIS PAGE.

Two blank copies of the RESPONSIVE DECLARATION TO ORDER TO SHOW CAUSE form.

One blank PROOF OF SERVICE form.

INCOME AND EXPENSE DECLARATION (if support is an issue).

Upon receipt of all of the above documents and the appropriate filing fee, the Clerk will file the originals of each of the completed documents and the OSC hearing will be set in a designated department (courtroom). The copies will be conformed and returned to you. One set should be retained for your own records, and one copy of each document filed must be served on the opposing party, along with the blank forms, information sheet and notice of "OSC" procedures.

All of the documents described must be served on the opposing party NOT LESS THAN 15 DAYS PRIOR TO THE HEARING. If service is to be accomplished by any means other than personal service on the opposing party, the required time for service may vary. You should refer to Code of Civil Procedure Section 1006.

Failure to comply with the statutory requirements for the time of service will render the service ineffective. You may have to have the matter reset and serve the opposing party again with notice of the new date and time.

YOU MAY NOT SERVE THE OPPOSING PARTY YOURSELF. Any person over the age of eighteen years, other than you, may do so. A Proof of Service must be fully completed and signed by the person who accomplishes the service for you. This document **MUST** be filed with the Court. If it is not filed in advance of the hearing, bring the Proof of Service to Court with you on the date of the hearing. In the event that the opposing party elects not to appear in Court on the date of the hearing, the Proof of Service is ABSOLUTELY REQUIRED to be produced to the Court or no action can be taken to grant your requests. There will be no exception to this rule.

The opposing (responding) party **MUST** submit a current INCOME AND EXPENSE DECLARATION prior to the hearing and must serve this and all other responsive documents and declarations on the moving party in such a manner that they are guaranteed to be received by the moving party not less than **five days** prior to the date of hearing. The responding party should present the original responsive documents to the clerk in the assigned courtroom at least **two days** prior to the hearing.

On the day of the hearing, you should arrive **in the courtroom** a few minutes before the designated time. Be seated. Being late to Court may result in your matter being taken off calendar or in a default order being made against you.

In the event of an emergency making it impossible for you to appear, the court should be notified.

When your case is called, stand and identify yourself. When it is called again for the actual hearing, come forward to the counsel table and be prepared to conduct the hearing. Keep in mind that the Court may be personally sympathetic to the fact that you are not an attorney. However, the Court cannot help you present your case. You must act as your own attorney. If you choose to represent yourself in a court of law, you will be held to the same standards as an attorney. You will be required to conduct your case on your own, following the customary rules and procedures expected of an attorney. For the purposes of the OSC hearing, most of your case will have been presented in your declarations, if they are properly and fully completed. You may be required to state a summary of your position.

In the event that your case involves a dispute as to custody or visitation of children, you will be required to participate in mediation efforts with the assistance of a court counselor in the Family Court Services department before the Court hears any evidence in your case. This mediation is required by statute in California. This procedure may consume most of the day on the date of the hearing or require you to return on a later date to complete your hearing.

If you are a non-English speaking citizen, please bring an interpreter to Court with you. The Court is not required to provide you with an interpreter.